

Section by Section Summary and Overview of SF 340

Section 1. Definitions. Key definitions include the following:

- “*Aggravated offense*” is the definition used to determine who is subject to lifetime registration. Current law is maintained, with two additions:
 - “Lascivious acts with a child in violation of section 709.8, **subsection 2.**” Subsection 1, which involves an offender who fondles a child, is already included in as a lifetime registration offense in current law. Subsection 2, which involves an offender who causes a child to fondle the offender, is added for consistency and proportionality.
 - Comparable offenses in another jurisdiction are added to the definition of “aggravated offense” to ensure that offenders who move to Iowa with a conviction in another jurisdiction are registered for the same duration as would be the case if the conviction had occurred under Iowa law. Under current law, all offenses committed in another jurisdiction, regardless of severity, require registration for 10 years.
- “*Aggravated offense against a minor*” is the new definition used to determine who is subject to the 2,000 ft residency restriction. Under current law, any person convicted of any sex offense against a minor is subject to the residency restriction. This new definition includes the following Iowa offenses (*does not apply to those who committed a comparable offense in another jurisdiction*):
 - Sexual abuse in the first degree in violation of section 709.2.
 - Sexual abuse in the second degree in violation of section 709.3.
 - Sexual abuse in the third degree in violation of section 709.4, except for a violation of section 709.4, subsection 2, paragraph "c", subparagraph (4).
- “*Loiter*” is the definition that relates to the newly created “exclusion zones” which apply to any person convicted of a sex offense against/involving a minor (which includes all offenses, not just “*aggravated offenses against a minor.*”) As used in Chapter 692A, “Loiter” means:
 - “...remaining in a place or circulating around a place under circumstances that would warrant a reasonable person to believe that the purpose or effect of the behavior is to enable a sex offender to become familiar with a location where a potential victim may be found, or to satisfy an unlawful sexual desire, or to locate, lure, or harass a potential victim.”
- “*Relevant information*” pertains to the information collected for persons required to register as a sex offender. Relevant information includes:
 - Criminal history, including warrants, articles, status of parole, probation, or supervised release, date of arrest, date of conviction, and registration status.
 - Date of birth.
 - Passport and immigration documents.
 - Government issued driver's license or identification card.
 - DNA sample.
 - Educational institutions attended as a student, including the name and address of such institutions.
 - Employment information including name and address of employer.
 - Fingerprints.
 - Internet identifiers.
 - Names, nicknames, aliases, or ethnic or tribal names, and if applicable, the real names of an offender protected under 18 U.S.C. 3521.
 - Palm prints.
 - Photographs.
 - Physical description, including scars, marks, or tattoos.

- Professional licensing information.
- Residence.
- Social security number.
- Telephone numbers, including any landline or wireless numbers.
- Temporary lodging information, including dates when residing in temporary lodging.
- Statutory citation and text of offense committed that requires registration under this chapter.
- Vehicle information for a vehicle owned or operated by an offender including license plate number, registration number, or other identifying number, vehicle description, and the permanent or frequent locations where the vehicle is parked, docked, or otherwise kept.
- The name, gender, and date of birth of each person residing in the residence.
- *“Residence”* means each dwelling or other place where a sex offender resides, sleeps, or habitually lives, or will reside, sleep, or habitually live, including a shelter or group home. If a sex offender does not reside, sleep, or habitually live in a fixed place, "residence" means a description of the locations where the offender is stationed regularly, including any mobile or transitory living quarters. "Residence" shall be construed to refer to the places where a sex offender resides, sleeps, habitually lives, or is stationed with regularity, regardless of whether the offender declares or characterizes such place as the residence of the offender.

Section 2. Classifies sex offenses into Tier I, Tier II, and Tier III offenses. All offenses specified in the tiers require registration. The frequency of required in-person verification is based upon the tiers. Tier I offenses require annual in-person verification of relevant information at the sheriff's office, Tier II offenses require in-person verification every six months, and Tier III offenses require in-person verification every three months. Specific offenses are classified within the tiers, generally according to the following scheme:

- **Tier I:** Sex offenses not included in Tiers II or III.
- **Tier II:** Generally, sex offenses punishable by more than one year incarceration, not involving force, threat of violence, or incapacitation of victim.
- **Tier III:** Generally, sex offenses punishable by more than one year incarceration, involving force, threat of violence, or incapacitation of victim.

Subsections 2-5 of this section also specify certain circumstances when an offender will be reclassified into a higher tier due to factors such as previous sex offense convictions.

Section 3. Requirement to register as a sex offender. This section specifies that any person convicted of a Tier I, II, or III offense is required to register (offenses are specified in the bill, and include convictions for comparable offenses in other courts/jurisdictions). The requirement to register applies to a person who resides in Iowa, is an employee in Iowa, or is a student in Iowa. In addition, this section also specifies when the requirement to register commences.

Section 4. Registration process. This section sets forth the registration process, which generally involves in person appearance in the county of residence, and any county in which the registrant is employed or is a student. Reporting of changes to relevant information requires notification in the county of principal residence (see definition for “principal residence” in SF 340). Offenders are required to register or make notification of changes within five business days of the requirement to register or the change in relevant information.

Section 5. Notification of temporary lodging. This section requires that a registrant notify the sheriff of the county of principal residence of any location where the sex offender will be staying for more than five days.

Section 6. Duration of registration. This section of this bill generally preserves current law by providing a registration requirement of 10 years, except in the case of second or subsequent offenses or aggravated offenses, which require lifetime registration. Note that the definition of “aggravated offense” was expanded to include lascivious acts with a child in violation of section 709.8, **subsection 2**” and also any conviction outside Iowa for an offense comparable to an aggravated offense.

Section 7. Tolling registration. This section specifies that the required period of registration is tolled during any period of incarceration and during any period of non-compliance with registration requirements.

Section 8. Verification of relevant information. This section specifies that in-person verification of relevant information is required, as follows:

- For a sex offender classified as a tier I offender, every year.
- For a sex offender classified as a tier II offender, every six months.
- For a sex offender classified as a tier III offender, every three months.

This section also provides that a sheriff may impose more frequent in-person verification requirements for good cause. Also, a photograph of a registrant must be updated, at a minimum, annually, but may be updated more frequently.

Section 9. Duty to facilitate registration. This section confers upon certain correctional and law enforcement personnel a duty to facilitate registration. In addition to the general duty to facilitate registration, this section compels a registering agency to inform registrants of certain information pertaining to their registration and applicable residency or activity restrictions.

Section 10. Fees and civil penalty. This section changes the sex offender registration fee to \$25 annually (instead of the \$10 fee that is specified in current law, without use of word “annually”), and increases the civil penalty for a sex offense that requires registration from \$200 to \$250.

Section 11. Penalties for failure to comply. This section specifies that a violation of the requirement to register, the residency restriction, the exclusion zones, or prohibited employment is an aggravated misdemeanor for a first offense and a class D felony for a subsequent offense. This section also specifies that a person who commits an aggravated offense against a minor, a sex offense against a minor, or a sexually violent offense while in violation of the requirement to register, the residency restriction, the exclusion zones, or prohibited employment commits a class C felony in addition to the penalty for the underlying aggravated offense against a minor, sex offense against a minor, or sexually violent offense. This section also specifies that comparable offenses in another jurisdiction are considered a prior offense in determining if an Iowa offense is a first offense or subsequent offense, and specifies that violations may be prosecuted in any county in which a person is required to register.

Section 12. False information. This section prohibits an offender from knowingly providing false information.

Section 13. Exclusion zones and prohibited employment. This section prohibits a registered sex offender convicted of a sex offense against a minor from:

- Being present without permission on the grounds of a school, unless enrolled as a student.
- Being present without permission on the grounds of a child care facility.
- Being present without permission on or in a school bus (or other school vehicle) when children are being transported (unless enrolled as a student, or unless the bus is also made available to the public as a form public transportation).
- Being present without permission on the grounds of a public library.
- Loitering within 300 ft of a school, unless enrolled as a student.
- Loitering within 300 ft of a child care facility.
- Loitering within 300 ft of a public library.
- Loitering on or within 300 ft of the premises of any place intended primarily for the use of minors including but not limited to a playground available to the public, a children's play area available to the public, recreational or sport-related activity area when in use by a minor, a swimming or wading pool available to the public when in use by a minor, or a beach available to the public when in use by a minor.
 - Exceptions to the above include a registered offender:
 - Dropping off or picking up their child in an exclusion zone, such as a school.
 - Voting at a polling place located in an exclusion zone.
 - Residing within an exclusion zone.
- Operating, managing, being employed by, or acting as a contractor or volunteer at any municipal, county, or state fair or carnival when a minor is present on the premises.
- Operating, managing, being employed by, or acting as a contractor or volunteer on the premises of any children's arcade, an amusement center having coin or token operated devices for entertainment, or facilities providing programs or services intended primarily for minors, when a minor is present.
- Operating, managing, being employed by, or acting as a contractor or volunteer at a public or nonpublic elementary or secondary school, child care facility, or public library.
- Operating, managing, being employed by, or acting as a contractor or volunteer at any place intended primarily for use by minors including but not limited to a playground, a children's play area, recreational or sport-related activity area, a swimming or wading pool, or a beach.

Section 14. Residency restriction. This section makes significant modifications to the 2,000 ft residency restriction. Major new features include the following:

- The restriction will apply only to those offenders who are required to be registered for an “aggravated offense against minor” rather than current law, which applies the residency restriction to all offenders (regardless of whether they are required to be registered) for any sex offense against a minor.
- The restriction still relates only to schools and child care facilities (not libraries, etc..).
- The current law exemption for a ward in a guardianship is narrowed so that the residency restriction exemption only applies to a ward if a district judge or associate probate judge grants a residency restriction exemption.
- A registered sex offender who would otherwise be subject to the residency restriction may reside within 2,000 ft of a school or child care center while a patient at a health care facility if approved by a district judge or associate probate judge.
- Other provisions of current law are maintained, with some clarifications to resolve certain ambiguities.

Section 15. Employment related to dependent adults. This section prohibits any registered sex offender from employment at a facility providing services for dependent adults, and events where

dependent adults participate in programming. This section also prohibits loitering at such facilities/events.

Section 16. Determination of requirement to register. This section retains a provision of current law that allows a person to request a “determination of requirement to register.”

Section 17. Registration forms. This section specifies that DPS is to make forms and an electronic registration system available.

Section 18. DPS duties. This section outlines DPS duties related to sex offenders and sex offender registration.

Section 19. Sex Offender Registry Fund. This section retains the already existing “sex offender registry fund” and specifies that the fund is non-reverting.

Section 20. Sheriff duties. This section specifies duties of the Sheriff in relation to sex offender registration and notification of schools when a sex offender is a student.

Section 21. Availability of relevant information. This section specifies the relevant information that must be disclosed on the Internet, and the relevant information that may not be disclosed on the Internet. Additionally, this section specifies information that is NOT to be published on the Internet, and specifies that some of this information can be released to the public upon request.

Section 22. Cooperation mandated. This section specifies that any state or local agency that has information relevant to sex offender registration must cooperate with DPS.

Section 23. Immunity. This section confers immunity upon criminal or juvenile justice agencies and their employees, and state agencies and their employees, for liability for acts or omissions arising from good faith efforts related to implementation of provisions of this chapter.

Section 24. Electronic monitoring. This section provides greater flexibility to corrections officials to base electronic monitoring (such as RF or GPS monitoring) on the assessment of risk, criminal history, progress in treatment, and similar considerations. Under current law, electronic monitoring is legislatively prescribed for certain offenders and certain durations.

Section 25. Applicability and retroactivity. This section specifies that the registration requirements apply to offenders convicted on or after July 1, 2009, as well as persons currently required to register, persons currently incarcerated for a sex offense, and persons currently serving a “special sentence” for a sex offense.

Section 26. Determination of sexually motivated offenses. Under current law, DPS makes determinations as to whether certain offenses against a minor are sexually motivated, and therefore trigger the registration requirement. Offenses that may be sexually motivated, but which are not typically or always a “sex offense” include crimes such as murder, attempted murder, burglary, stalking, harassment, and more. Under this section, the determination of sexual motivation for crime will be a court determination for convictions in Iowa courts, and will remain a DPS determination for convictions in other courts.

Section 27. Preemption. This section, which is entirely new (no similar provision in current law), preempts local governments from enacting a residency restriction or exclusion zone.

Section 28. Modification of requirement to register. This section, which is entirely new (no similar provision in current law), establishes a “modification” procedure to allow sex offenders to have their requirement to register modified in district court. In order to qualify to be granted a modification, a sex offender must:

- Not be incarcerated; and
- Be under supervision (except a person who offended as a juvenile but who is no longer under supervision); and
- Have been registered for two years (in the case of a Tier I offense) or five years (in the case of a Tier II or III offense); and
- Have successfully completed all required treatment; and
- Have been determined to be a low risk to re-offend according to a DOC approved risk assessment; and
- Have the CBCs’ “stipulation” (support of) the request (except a person who offended as a juvenile and is not under supervision).

The District Court may hold a hearing on a request for modification, but is not required to do so.

Section 29. Supervising officers are not preempted. This section, which is new law, specifies that a probation or parole officer is not precluded from imposing residency restrictions, exclusion zones, and limitations on employment more stringent than those provided under this Chapter.

Section 30. Rules. This section specifies that DPS has rulemaking authority for Chapter 692A.

Section 31. Repeal. This section specifies that current sex offender registration laws are repealed and replaced by the provisions of this bill effective July 1, 2009.

Section 32. Technical.

Section 33. Technical.

Section 34. Technical change related to Section 36 (see below).

Section 35. Electronic monitoring of 18-19.5 year olds by juvenile court. Provides that the juvenile court can provide for electronic monitoring for a juvenile sex offender whose supervision has been extended beyond the age of 18 (up to age of 19.5) (see Section 36 below).

Section 36. Extending juvenile court jurisdiction after 18. Provides that the juvenile court can extend court supervision of a juvenile sex offender whose dispositional order was entered prior to age 17, for 18 months past age 18 (up to age 19.5).

Section 37. Registration determination required for juvenile offenders in termination order. Requires that the juvenile court make a final determination as to whether a juvenile sex offender must remain on the sex offender registry upon termination of a dispositional order.

Section 38 through Section 47. Technical.

Section 48 through Section 58. Sexually motivated criminal offenses. Amends numerous criminal offenses to require the court to make a determination as to whether the offense was sexually motivated and therefore triggers the requirement to register.

Section 59. Lifetime special sentence for sex offenders. This section specifies that the Board of Parole must determine whether to place a person subject to the lifetime special sentence on parole or work release.

Section 60. 10-year special sentence for sex offenders. This section specifies that the Board of Parole must determine whether to place a person subject to the 10-year special sentence on parole or work release.

Section 61. Deferred judgment. Under current law and this bill, deferred judgments are prohibited for violations of Chapter 692A. This section is largely technical, as it restates the prohibition on deferred judgments for violations of Chapter 692A (which includes registration, residency, exclusion zones, and prohibited employment) within the Code section that pertains to deferred judgments.

Section 62. Deferred sentence. Under current law and this bill, deferred sentences are prohibited for violations of Chapter 692A. This section is largely technical, as it restates the prohibition on deferred sentences for violations of Chapter 692A (which includes registration, residency, exclusion zones, and prohibited employment) within the Code section that pertains to deferred sentences.

Section 63. Victim notification of change in electronic monitoring. This section requires the CBCs to notify an offender's victim(s) of changes in electronic monitoring.

Section 64. Child abuse. This section changes the definition of "child abuse" so that instead of specifically including "cohabitation" with a sex offender, the definition will include "knowingly allowing a person custody or control of, or unsupervised access to a child or minor, after knowing the person is required to register or is on the sex offender registry under chapter 692A."

Section 65. Criminal child endangerment. This section alters the offense of "child endangerment" so that instead of specifically including a person who "cohabits with a person after knowing the person is required to register" as a sex offender, the offense will now specifically include a person who "knowingly allows a person custody or control of, or unsupervised access to a child or a minor after knowing the person is required to register" as a sex offender.

Section 66. State mandate. This section notwithstanding the state unfunded mandate statute.

Effective July 1, 2009, if enacted.